

ASSEMBLY BILL

No. 1421

Introduced by Committee on Accountability and Administrative Review (Frazier (Chair), Achadjian (Vice Chair), Ian Calderon, Cooley, Hagman, Lowenthal, Medina, Quirk-Silva, and Salas)

March 21, 2013

An act to amend Sections 11011.5 and 14664 of the Government Code, relating to surplus state property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1421, as introduced, Committee on Accountability and Administrative Review. Surplus state property: realtors and landlocked properties.

(1) Existing law prescribes a process for the sale of surplus state real property. This process requires each state agency to report annually to the Department of General Services any proprietary state lands under the jurisdiction of that agency that are in excess of its foreseeable needs. Existing law provides certain exceptions from this requirement, including, among others, lands under the jurisdiction of specified state entities. Existing law requires the department to determine if excess land is needed by another agency and, if it is, to provide for transfer to another agency. Existing law authorizes a state agency authorized to sell surplus state property to employ a licensed real estate broker, with the approval of the department, for a negotiated commission not to exceed reasonable and customary brokerage commissions applicable to similar privately owned properties in the area. Existing law prohibits the Director of General Services from employing the services of a broker unless the director determines that the employment of a broker to sell the property would result in a cost savings to the state.

This bill would revise the authorization for a state agency selling surplus state property to employ a licensed real estate broker to require that the broker be local with respect to that property and would prescribe requirements for the selection of the broker. The bill would require the state to adopt criteria to determine the competence and qualification for the services to be performed and to evaluate the customary brokerage commission to be charged based on services in the area.

(2) Existing law authorizes the Director of the Department of General Services, without regard to any other law, upon the written request and consent, as specified, to sell, convey, or exchange specified properties that are not needed by any state agency at fair market value following a 30-day notice to the Joint Legislative Budget Committee and the applicable Members of the Senate and Assembly who represent the district in which the properties are located. Existing law requires, in this context, that the surplus character of certain properties, including those obtained as a result of seizure or with a market value of less than \$25,000, be established pursuant to the general surplus property procedures described above. Existing law requires that funds received from these sales be handled the same as those funds received from surplus property sales, as specified.

This bill would authorize the Director of the Department of General Services, pursuant to the provisions described above, to sell, convey, and exchange property that is landlocked or without legal access from a public road, street, or highway, and property that is a remainder or remnant parcel having a diminished economic utility or value, as specified, if the sale, conveyance, or exchange is with the owner of an adjoining property. The bill would also remove the requirement that the surplus character of certain properties be established pursuant to the general surplus property procedures, as described above.

(3) The California Constitution provides that the proceeds from the sale of surplus state property be used to pay the principal and interest on bonds issued pursuant to the Economic Recovery Bond Act until the principal and interest on those bonds are fully paid, after which these proceeds are required to be deposited into the Special Fund for Economic Uncertainties. Existing statutory law similarly requires that the net proceeds received from any real property disposition be paid into the Deficit Recovery Bond Retirement Sinking Fund Subaccount, a continuously appropriated fund, until the bonds issued pursuant to the act are retired.

By increasing the amount transferred into a continuously appropriated fund, this bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11011.5 of the Government Code is
2 amended to read:

3 11011.5. (a) ~~When~~ *If* no state or other public entity seeks to
4 obtain title to specific surplus state-owned real property, a state
5 agency authorized to sell that property, except property acquired
6 for state highway purposes, may, with the approval of the
7 Department of General Services, employ a licensed real estate
8 broker *who is local with respect to that property* for a negotiated
9 commission not to exceed reasonable and customary brokerage
10 commissions applicable to similar privately owned properties in
11 the area in connection with that sale and pay the amount of
12 commission earned by the broker. The commission shall be paid
13 only out of the proceeds of the sale before the proceeds are remitted
14 to the State Treasury. The Director of General Services shall only
15 employ the services of a broker ~~when~~ *if* the director determines
16 that the employment of a broker to sell the property would result
17 in a cost savings to the state. Any state properties sold through the
18 services of a broker shall be reported, along with a comparison of
19 the estimated cost savings obtained through the use of a broker,
20 in the annual surplus property report to the Legislature required
21 pursuant to Section 11011.

22 ~~(b) This section shall be inoperative for the period commencing~~
23 ~~with the effective date of the act that added this subdivision, until~~
24 ~~July 1, 2005.~~

25 *(b) Notwithstanding any other law, the state's selection for the*
26 *professional services of a licensed real estate broker shall be made*
27 *on the basis of the location of the property, the broker's*
28 *demonstration of knowledge of the local real estate market and*
29 *success in selling real property in the local market, and on*
30 *demonstrated competence and the professional qualifications*
31 *necessary for the satisfactory performance of the services required.*
32 *To implement this selection method, the state shall adopt specific*
33 *criteria to determine the competence and qualification for the*

1 *services to be performed and to evaluate the customary brokerage*
2 *commission to be charged based on services in the area.*

3 SEC. 2. Section 14664 of the Government Code is amended
4 to read:

5 14664. (a) The director may execute grants to real property
6 belonging to the state in the name and upon behalf of the state,
7 whenever the sale or exchange of real property is authorized or
8 contemplated by law, if no other state agency is specifically
9 authorized and directed to execute the grants. The director may
10 also execute deeds or any other instruments necessary to correct
11 erroneous descriptions on deeds by which the state acquired title.

12 (b) (1) Notwithstanding any other ~~provision of~~ law, upon the
13 written request and consent of the state agency with control or
14 jurisdiction over the property concerned, the director may sell,
15 convey, or exchange properties that are not needed by any state
16 agency at fair market value following a 30-day notice to the Joint
17 Legislative Budget Committee and the applicable Members of the
18 Senate and Assembly who represent the district in which the
19 properties are located, under any of the following circumstances:

20 (A) Property, not to exceed five acres, to a local governmental
21 agency for the purpose of local public works projects, including,
22 but not limited to, utility rights-of-way, drainage ditches, road
23 widening, including curbs, gutters, sidewalks, and small parking
24 lots.

25 (B) Property with a fair market value of up to one million dollars
26 (\$1,000,000) received by the state through the office of the
27 Attorney General or another state agency as the result of a
28 foreclosure, seizure, or court action.

29 (C) Property that is being encroached ~~on~~, *where on, where* the
30 adjacent landowner and the state agency with control or jurisdiction
31 over the property concerned, the director, and the Attorney General
32 agree that the best manner in which to resolve the matter is through
33 a sale of the property or for an exchange of property of equal value.

34 (D) Property not needed by any state agency with a fair market
35 value of less than twenty-five thousand dollars (\$25,000).

36 (E) *Property that is landlocked, or without legal access from a*
37 *public road, street, or highway, if the sale, conveyance, or*
38 *exchange is with the owner of an adjoining property.*

39 (F) *Property that is a remainder or remnant parcel having a*
40 *diminished economic utility or value due to its size, shape, location,*

1 *or other detrimental characteristics if the sale, conveyance, or*
2 *exchange is with the owner of an adjoining property.*

3 ~~(2) Any parcel described in subparagraph (B) or (D) shall be~~
4 ~~declared surplus in the identical manner as state property declared~~
5 ~~surplus pursuant to Section 11011.~~

6 ~~(3)~~

7 (2) All funds received by the state pursuant to this subdivision
8 shall be handled in the identical manner as funds received from
9 state property disposed of pursuant to Section 11011.

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